Subject: Your confirmatory application for access to documents under Regulation (EC) No 1049/2001 - GESTDEM 2018/1846

Dear Mr Schindler,

I refer to your e-mail of 15 May 2018, registered on 18 May 2018, in which you submit a confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents1 (hereafter 'Regulation 1049/2001').

I also refer to the e-mails sent to you, by the Legal Service at initial stage, dated 18 April 2018 and 30 April 2018, and to your replies by e-mail dated 18 April 2018 and 9 May 2018.

Please note that your confirmatory application is currently being handled. Due to the volume and content of the documents under review, and taking into account the fact that another confirmatory request originating from you2 is being dealt with by the Secretariat-General at the moment3, the analysis of the documents falling under the above-mentioned

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2 Your confirmatory application registered on 25 May 2018 under reference number GESTDEM 2018/811.
3 As confirmed by the General Court in its Judgment of 10 December 2010 in case T-494/08, Ryanair v Commission, the volume of several 'applications for access to documents' can be considered as a whole if they 'were made to the Commission almost simultaneously, [...] from the same applicant and covering cases which were connected.'
confirmatory application cannot be completed within the normal time limits set out in Article 7 of Regulation 1049/2001.

In the event of an application whose handling would involve an inappropriate administrative burden, Regulation 1049/2001, based on its Article 6(3), provides for a possibility to confer with the applicant in order to find a fair solution.

In accordance with the case law of the EU Court, such a solution can only concern the content or the number of documents requested, not the deadline for replying.\textsuperscript{4} This means that the scope of the request must be reduced in a way that would enable its treatment within the extended deadline of 15 + 15 working days.

Based on the above-mentioned provision, we would kindly ask you to specify the objective of your request and your specific interest in the documents requested\textsuperscript{5}, and whether you could significantly narrow down the scope of your request, so as to reduce it to a more manageable amount of documents.

According to our searches in the document management system concerned, the files of the following 15 applications for access to documents lodged under Regulation 1049/2001 include documents which fall under the scope of your request:

\textbf{Initial requests dealt with by the Legal Service:}

- GESTDEM 2016/5328;
- GESTDEM 2016/5572;
- GESTDEM 2017/0861 (includes a confirmatory application); and
- GESTDEM 2017/5831.

\textbf{Initial requests dealt with by other Directorates-General or services\textsuperscript{6} on which the Legal Service intervened at confirmatory level:}

- GESTDEM 2015/3828;
- GESTDEM 2016/4441;
- GESTDEM 2016/5921;
- GESTDEM 2017/0859;
- GESTDEM 2017/2215;
- GESTDEM 2017/6751;
- GESTDEM 2017/7578;
- GESTDEM 2017/7583;
- GESTDEM 2017/7585;


\textsuperscript{6} Directorate-General for Communications Networks, Content and Technology; Directorate-General for Competition; Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs; Directorate-General for Trade; the Joint Research Centre and the European Political Strategy Centre.
According to our preliminary searches for the documents requested, there are at least 109 documents falling under the scope of your request, a number of which contain long e-mail exchanges. Based on our preliminary workload estimates, handling all documents falling under the scope of your request would require more than 100 working hours of one full-time equivalent (FTE), covering the following steps:

- Identification, gathering and quick screening of the documents falling under your confirmatory request;
- Careful assessment of documents and identification of protected information;
- Contacts and exchanges with the Directorate-General or service concerned by the document held by the Legal Service;
- Performing the necessary redactions of the relevant parts falling under exceptions of Regulation 1049/2001 (which, given the existence of at least personal data in most of the documents requested, concerns a high numbers of documents);
- Preparation of the draft reply;
- Consultation of the Legal Service on the draft reply;
- Final check of the documents to be released and clerical handling.

The estimated workload corresponds to the time of one Commission staff working full time on your request, without considering the time necessary for consulting the hierarchy and the final approval of the reply. Given the fact that the staff concerned will, during the same period of time, have to perform also other tasks, including, for example, handling another confirmatory request lodged by you7 and requests for access to documents from other citizens, in order to safeguard the interests of good administration, the staff member concerned cannot be expected to work exclusively or mainly on your confirmatory request. It follows that your request cannot be handled within the extended period of 30 working days.

With a view to reaching a fair solution concerning the handling of your confirmatory request, taking into account the workload already engendered by assessing the workload of handling your request, and to respect the time-limits set by Regulation 1049/2001, we propose to:

- deal with an overall number of 20 documents concerning at least three different access-to-documents requests, giving priority to some documents where our preliminary assessment suggests the possibility of granting (at least wide) access.

In order to enable us to provide you with a reply as soon as possible, we would ask you for a swift response to our proposal for a fair solution, within five working days at the latest, by email to sg-ace-doc@ec.europa.eu.

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7 Registered under reference number GESTDEM 2018/811.
In the absence of a reply within five working days, we will unilaterally take a decision on the handling of your application on the basis of the information at our disposal, taking into account the exchange you had with the Legal Service at initial stage.

Thank you in advance for your understanding.

Yours sincerely,

Martin Kroeger
Head of Unit